

In addition to the continued efforts of Eckstein, Platt and van Horne, Havenick sought further legal assistance, hiring Mitchell Berger of Berger & Davis in Fort Lauderdale, Fla., on July 24. Berger said that Havenick hired him partly because of his experience in litigating administrative matters, but mostly because Berger was “very politically active” with both the DNC and the Clinton/Gore campaign, and had a good personal relationship with Babbitt.⁴⁸⁴ Havenick told Berger that he wanted Berger to call Secretary Babbitt. Berger, doubting that such a tactic would be appropriate or effective, first undertook to learn more about the decision. According to Berger, he initially conferred with a friend and political advisor who was well-connected to the Native American community. With the benefit of intelligence he thus gained about the Hudson controversy, Berger reported back to Havenick on some conciliatory efforts the applicants might attempt in order to ease community and tribal opposition. According to Berger, Havenick remained insistent that Berger call the Secretary.⁴⁸⁵ Nonetheless, Berger testified that he never spoke directly with Babbitt concerning the Hudson matter. Babbitt said he knew Berger as a result of Berger’s involvement in Florida Everglades issues, but he had no recollection of discussing the Hudson matter with Berger.

Instead, on July 31, Berger called Christopher Thomson, a special assistant to Babbitt with whom Berger had previously dealt on scheduling matters for Babbitt’s visits to Florida on environmental issues. Berger asked Thomson for information on the Hudson application, and for

⁴⁸⁴Grand Jury Testimony of Mitchell Berger, Feb. 19, 1999, at 78 (hereinafter “M. Berger G.J. Test.”).

⁴⁸⁵Berger’s own memorandum reflects that, after gathering background information, he intended to call Interior “to see what I can do with Secretary Babbitt.” Memorandum from Mitchell Berger to Fred Havenick, July 28, 1995.